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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/718,931	11/21/2000	Paul D. Arling	81230.578001	7074

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EXAMINER	
YENKE, BRIAN P	
ART UNIT	**PAPER NUMBER**
2614	

DATE MAILED: 12/07/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/718,931	ARLING ET AL.	
	Examiner	Art Unit	
	BRIAN P. YENKE	2614	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *Petition to Make Special (25 April 03)*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *6-9,11,15-19 and 21* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *6-9,11,15-19 and 21* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date *See Atch*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

1a. Claims 6-9, 11,15, 19 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lord, US 6,593,967.

In considering claim 6,

In considering claims 6, 15 and 21,

*a) the claimed a timer...*is met by fingerprint compare unit 42 which can adjust the confidence thresholds as a function of time (i.e. 30 second increments) (col 6, line 32-46).

b) the claimed a memory is met by fingerprint memory 41 (Fig 1).

*c) the claimed storing a primary channel...*is met by controller 20 which receives a user response, including the depression of remember key 26 or an alternative embodiment the controller 20 stores a primary channel when the user starts channel surfing.

d) the claimed starting the timer... is met by fingerprint compare unit 42 which can adjust the confidence thresholds as a function of time (i.e. 30 second increments) (col 6, line 32-46) when the user depresses remember key 26 or in the alternative embodiment when the user begins to channel surf.

*e) the claimed in response to expiration of the predetermined interval...*is met where once fingerprint compare 42 identifies a fingerprint match based upon the time increments (i.e. 30 seconds) of comparison, sends a signal to controller 20 which in turns selects the original program via main tuner 30 via main channel control 20a which is displayed for the user on monitor 31 (Fig 1).

As shown in Fig 1 the controller 20, fingerprint memory 41 and fingerprint compare 42 are shown outside of the remote control unit 25.

However, Lord does disclose that memory 41 and compare 42 may be implements in software and included in controller 20.

Thus the question is whether it would have been obvious to include controller 20 in the remote control unit 25.

The examiner relies on legal precedents that the mere integration of components (*In re Larson, 340 F.2d 965,967,144 USPQ 347,349 (CCPA 1965); In re Wolfe, 251 F.2d 854, 855, 116 USPQ 443,444 (CCPA 1958)* is considered to be an obvious modification to one of ordinary skill in the art.

Therefore, it would have been obvious to one of ordinary skill in the art to modify Lord which discloses a remote control unit 25 which sends commands to a controller 20 where the combination of both elements perform the necessary input/control functions of the system, by integrating the remote 25 and controller 20 which would reduce the number of separate elements in the system and increase the number of components/software in remote 25 but the integration would afford the user direct control of the system.

In considering claims 7 and 19,

Is met by Lord where once the user starts channel surfing either after depressing the remember key or after watching a main program for a period of time and displays the main program when the main program is identified.

In considering claims 8, 9 and 11,

Lord discloses a system where the user either depresses a remember button 26 and starts channel surfing where the system will return the user to the program which was airing when remember button 26 was depressed, or alternatively the user does not need to depress button 26, since the system tracks the amount of time a user has spent watching a program and if the time exceeds a predetermined threshold that is a tacit indication that the user wishes to remember the program after channel surfing (col 9, line 1-32). Also, a retroactive button may be placed where the user may use that button if the user forgot to press remember button 26 prior to channel surfing.

Thus the user may begin channel surfing either before/after depressing a retroactive or remember button respectively, or may channel surf without pressing any key before or after channel surfing which would also provide the user the original program prior to surfing.

1b. Claims 16-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lord, US 6,593,967 in view of Johnson, EP-0366001.

In considering claims 16, and 18,

Regarding the 3rd user input, Lord does not explicitly recite the user selecting a key for a duration greater than a duration required to effect the first or second input. However, the selection of a key for a duration being provided by/to the user is conventional in the art.

The examiner relies on Lord, which discloses in the background (EP-0366001) that conventionally users are able to operate a timer and select the time before returning to the main program (60 seconds, 90 seconds, etc) (col 1, line 52-67).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify Lord which discloses the automatic return to the main program for the viewer while surfing by affording the viewer the ability to surf channels regardless if the main program has returned, where the viewer has the ability to customize how long he/she may surf channels without being redirected while surfing.

In considering claim 17,

Lord discloses a system where the user either depresses a remember button 26 and starts channel surfing where the system will return the user to the program which was airing when remember button 26 was depressed, or alternatively the user does not need to depress button 26, since the system tracks the amount of time a user has spent watching a program and if the time exceeds a predetermined threshold that is a tacit indication that the user wishes to remember the program after channel surfing (col 9, line 1-32). Also, a retroactive button may be placed where the user may use that button if the user forgot to press remember button 26 prior to channel surfing.

Thus the user may begin channel surfing either before/after depressing a retroactive or remember button respectively, or may channel surf without pressing any key before or after channel surfing which would also provide the user the original program prior to surfing.

Conclusion

2. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure—see newly cited references on attached form PTO-892

3. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian Yenke whose telephone number is (703) 305-9871. The examiner work schedule is Monday-Thursday, 0730-1830 hrs.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's Supervisor, John W. Miller, can be reached at (703)305-4795.

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks

Washington, D.C. 20231

or faxed to:

(703) 872-9314

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA, Sixth Floor (Receptionist). Any inquiry of a general nature or

relating to the status of this application or proceeding should be directed to the Technology Center 2600 Customer Service Office whose telephone number is (703)305-HELP.

General information about patents, trademarks, products and services offered by the United States Patent and Trademark Office (USPTO), and other related information is available by contacting the USPTO's General Information Services Division at:

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(FAX) 703-305-7786

(TDD) 703-305-7785

An automated message system is available 7 days a week, 24 hours a day providing informational responses to frequently asked questions and the ability to order certain documents. Customer service representatives are available to answer questions, send materials or connect customers with other offices of the USPTO from 8:30 a.m. - 8:00p.m. EST/EDT, Monday-Friday excluding federal holidays.

For other technical patent information needs, the Patent Assistance Center can be reached through customer service representatives at the above numbers, Monday through Friday (except federal holidays) from 8:30 a.m. to 5:00 p.m. EST/EDT.

General information brochures can also be obtained in person from the Patent Search Room located in Crystal Plaza 3, Room 1A03, 2021 South Clark Place, Arlington, VA 22202.

The Patent Electronic Business Center (EBC) allows USPTO customers to retrieve data, check the status of pending actions, and submit information and applications. The tools currently available in the Patent EBC are Patent Application Information Retrieval (PAIR) and the Electronic Filing System (EFS). PAIR (http://pair.uspto.gov) provides customers direct secure access to their own patent application status information, as well as to general patent information publicly available. EFS allows customers to electronically file patent application documents securely via the Internet. EFS is a system for submitting new utility patent applications and pre-grant publication submissions in electronic publication-ready form. EFS includes software to help customers prepare submissions in extensible Markup Language (XML) format and to assemble the various parts of the application as an electronic submission package. EFS also allows the submission of Computer Readable Format (CRF) sequence listings for pending biotechnology patent applications, which were filed in paper form.

BRIAN P. YENKE
Primary Examiner
Art Unit 2614

B.P.Y
03 December 2004